

Response to Comments
Section F: Watershed Management Program (Order, Part IX)

The below table includes all significant comments on the tentative permit section described above and the corresponding Fact Sheet section.

#	Commenter(s)	Comment	Response
F.1	City of Port Hueneme, City of Simi Valley, City of Ventura, City of Thousand Oaks, County of Ventura, and VCSQMP	Ensure the Watershed Management Program (WMP) provisions are structured to be an effective tool for planning water quality improvements.	No change. Comment noted.
F.2	City of Santa Paula	As written, the WMPs do not provide the same benefit for all watersheds. Permittees in watersheds such as the City [of Santa Paula] with effective TMDLs may not opt for WMPs due to their significant costs (\$75,000 to \$100,000 per city, \$400K-\$500K per WMP per watershed), and considerable time commitment in staff or consultant services in their development.	Change made. Participation in a Watershed Management Program (WMP) is voluntary. Permittees may weigh the benefits of participating in a WMP based on the water quality conditions in the watershed(s) to which the Permittee discharges. The Los Angeles Water Board acknowledges that each watershed has unique water quality issues and some are more polluted than others. The City of Santa Paula's MS4 discharges to Reach 3 of the Santa Clara River and is subject to WQBELs to implement the Santa Clara River Nitrogen Compounds TMDL, Santa Clara River Reach 3 Chloride TMDL, and Santa Clara River Estuary and Reaches 3, 5, 6, and 7 Indicator Bacteria TMDL.

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			<p>Regarding concerns about the resources required to develop a WMP, the Los Angeles Water Board has made a revision to the Tentative Permit to allow modeling in TMDL Implementation Plans previously developed by Permittees, if approved by the Los Angeles Water Board, to fulfill the RAA requirements for the waterbody pollutant combinations addressed by the TMDL Implementation Plan(s). Note that if in its comments on the TMDL Implementation Plan(s), the Los Angeles Water Board indicates that more information would be required to use the modeling as a basis for permit compliance, the additional information specified by the Board must be provided when the draft/ revised WMP is submitted or in advance of submittal of the draft/ revised WMP. If the Permittees identify a pollutant in a TMDL Implementation Plan to use as a limiting pollutant in the RAA, the Permittees must include justification for the limiting pollutant per Part IX.B.8.f of the Revised Tentative Order.</p>
F.3	TECS Environmental 2 nd Letter	There is inconsistency in terms of EWMP submittals. They vary according to the consultant that has prepared them. The EWMP for the Upper Los Angeles River EWMP group differs from the Upper San Gabriel River EWMP group. This has made it difficult to evaluate and to determine costs.	No change. A key benefit of WMPs is that they are customizable to allow Permittees to address the unique water quality issues within their watersheds. The manner in which they are customizable is largely related to the selection of strategies, control measures, and BMPs to address the specific water quality

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		<p>The inconsistencies are a consequence of MS4 Permit language, which allows for customized submittals. This is a consequence of the MS4 current permit, which allows for “customized” submittals that has been carried over to the tentative permit. In other words, EWMP and WMP groups can “roll their own” plans. This has led to challenges from the environmental community which resulted in the State Board making changes to several E/WMPs. Regional board permit writers should establish clear guidelines to assure uniformity and consistency.</p>	<p>priorities in a watershed. They are not customizable in terms of their required elements. However, to ensure uniformity and consistency, the permit requires a specific set of elements to be included in a WMP: water quality characterization, source assessment, water body-pollutant combinations (WBPCs), sequencing of water quality priorities, selection of watershed control measures, programmatic elements such as minimum control measures (MCMs) and non-stormwater discharge measures, a reasonable assurance analysis (RAA), and compliance schedules. Within each of these elements, the permit also sets forth minimum requirements and/or legal constraints that must be adhered to such as requirements for the RAA and limitations on compliance schedules.</p>
F.4	Santa Ana Region MS4 Permittees	<p>Modify the Watershed Management Programs (WMPs) The Santa Ana Region MS4 Permittees have a number of recommendations to clarify and provide consistency in the WMP provisions between the 2012 Los Angeles MS4 Permit and the Tentative Order, support building on existing planning efforts, and consider the time needed for municipal agencies to conduct significant planning efforts. Additionally, the Santa Ana Region MS4 Permittees recommend that more flexibility be provided for the Watershed Management</p>	<p>No change. WMPs continue to incentivize planning and implementation of multi-benefit and multi-partner watershed improvement projects and provide flexibility to accommodate the unique water quality characteristics within each watershed. Furthermore, this Regional MS4 Permit now encourages cross-County (Los Angeles and Ventura County) partnerships in addition to partnerships among MS4 permittees and partnerships with other entities such as public-private partnerships and partnerships with wastewater and water supply agencies.</p>

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		<p>Programs to allow for the planning and implementation of multi-benefit and multi-partner watershed improvement projects that help to achieve an integrated water resource management approach and ultimately more sustainable stormwater management.</p> <p><i>Considerations for revising the Tentative Order:</i> ...modifications to Section IX of the Tentative Order that would help incentivize the use of WMPs and provide flexibility to accommodate the different conditions and strategies that may be appropriate for individual watersheds.</p>	
F.5	Santa Ana Region MS4 Permittees	<p><u>Allow for Demonstration that Existing Plans are Functionally Equivalent to the WMPs</u> The Santa Ana Region MS4 Permittees recommend utilizing existing plans as a “functional equivalent” to a WMP if the Permittees can demonstrate that the existing plan meets all of the requirements of the WMP. This would better facilitate effective use of municipal resources. Permittees have been required to develop multiple plans for various purposes that often have many of the required elements of the WMP (e.g. TMDL implementation plans). Recent statewide planning requirements, such as the Stormwater Resource Plans and the Sustainable Groundwater Management Plans, have allowed for responsible agencies to submit a document or combination of</p>	<p>Change made. Existing plans that address stormwater such as Storm Water Resource Plans developed pursuant to Water Code section 10563, subdivision (c)(1) and Groundwater Sustainability Plans developed pursuant to Water Code section 10727 may not include the same level of modeling rigor required of the RAA. TMDL implementation plans are usually designed to target the specific waterbody pollutant combinations (WBPCs) addressed by the particular TMDL, rather than all WBPCs of concern in the watershed. In contrast, a WMP is intended to address all water quality priorities related to MS4 discharges within a watershed. Therefore, existing plans are inadequate as</p>

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		<p>documents as a functional equivalent document as long as the documents can be demonstrated to meet all the applicable requirements. The Santa Ana Region MS4 Permittees recommend that the Tentative Order allow for the submittal of a Functionally Equivalent Plan.</p> <p>To support this approach, the Santa Ana Region MS4 Permittees also recommend that the Tentative Order allow Permittees to propose the waterbody-pollutant combinations that are covered by the WMP. This is consistent with the approach utilized in the San Diego Region MS4 permit for obtaining alternative compliance. By allowing selection of the waterbodies and pollutants covered under the WMP, Permittees could better utilize existing planning efforts as a functional equivalent document even if the plan does not cover all pollutants.</p> <p>Include an option to submit a functionally equivalent WMP.</p>	<p>functional equivalents to WMPs in their entirety.</p> <p>However, the Board recognizes the merits and rigor built into other existing plans and therefore encourages Permittees to largely incorporate elements of other existing plans into the WMPs. For example, the Board is willing to accept modeling in a TMDL Implementation Plan, if approved by the Los Angeles Water Board, as fulfilling the RAA requirement for the WBPCs addressed by the TMDL Implementation Plan, and has made a change to Part IX.8.B.c of the Revised Tentative Order to indicate this. See also response to comment # F.2.</p> <p>Part IX.F.2 and Table 10 of the Revised Tentative Order were also revised to allow Ventura County Permittees to join a existing WMP where Los Angeles County Permittees and Ventura County Permittees share watersheds (e.g., Santa Clara River Watershed, Malibu Creek subwatershed). The Revised Tentative Fact Sheet Parts X.D.1 and X.E was also updated accordingly.</p>
F.6	Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson, Flintridge,	<p><u>Allow Agencies to Show Existing Plans are Functionally Equivalent to the WMPs</u> Include an option to submit a functionally equivalent WMP.</p>	<p>Change made. See responses to comments # F.2 and # F.5. Regarding the request to allow Permittees to propose the waterbody-pollutant combinations that are covered by the WMP, see response to comment # F.8.</p>

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	Glendora, Irwindale, La Cañada, and Rancho Palos Verdes	<p>The Cities request the ability to utilize existing plans as a “functional equivalent” to a WMP if the Permittees can demonstrate that the existing plan meets all of the requirements of the WMP.</p> <p>To support this approach, the Cities also request that the Permittees be allowed to propose the waterbody-pollutant combinations that are covered by the WMP. This is consistent with the approach used in the San Diego Region MS4 permit.</p>	
F.7	City of Port Hueneme, City of Simi Valley, City of Ventura, City of Thousand Oaks, County of Ventura, and VCSQMP	Provide additional flexibility for the scope of the WMPs/WMP equivalent plans.	Change made. See response to comments # F.2 and # F.5.
F.8	VCSQMP	<p><i>Provide Additional Flexibility for the Scope of the Watershed Management Plans</i></p> <p>For all of the reasons outlined in Comment #1, the Program has concerns about the value of a WMP for addressing TMDLs if the requested modifications are not made to the Tentative Order. These concerns have been magnified by the recently adopted State Water Board Order on the WMP/EWMP approvals. The Order appears to make the development of the WMP more onerous and</p>	<p>Change made. The 2020 State Board Order on the WMPs developed under the 2012 Los Angeles County MS4 Permit does not make the development of WMPs more onerous or costly. The 2020 State Board Order merely reflects the existing requirements of the 2012 Los Angeles County MS4 Permit for compliance with interim milestones in WMPs.</p> <p>In response to this comment, some of the requested changes have been made to clarify</p>

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		<p>costly and clarifies the expected interpretations of the WMPs for compliance purposes. As the majority of TMDLs in Ventura County have past due or near-term compliance deadlines, establishing WMPs that meet the deadlines would result in requirements to include unrealistic and unachievable milestones that would render the purpose of the WMP moot (sic) for TMDL compliance.</p> <p>However, the Program recognizes the WMPs do have value for addressing receiving water limitations that are not covered by a TMDL. As a result, the Ventura County Permittees would like flexibility to choose which constituents are covered by the WMP. While the Tentative Order may allow this option, some of the language is more stringent than the 2012 permit and the Ventura County Permittees would like clarity that this would be possible.</p> <p>The confusion exists within the Fact Sheet as well. For example, on page F-211, the Fact Sheet states that the WMP priorities must include at a minimum the WQBELs and RWLs for TMDLs:</p> <p>"Permittees must identify the water quality priorities within each Watershed Management Area that will be addressed by the Watershed</p>	<p>the applicability and requirements of WMPs under this Regional MS4 Permit.</p> <p>Changes were made to Parts IX.A.2, IX.A.4.b, IX.B.5, IX.B.5.a.ii, IX.B.6.b, IX.B.7.e, IX.B.8, IX.B.9, IX.B.9.c.i, IX.D, and IX.F.2.c of the Revised Tentative Order to clarify that Permittees have the flexibility to choose which WBPCs to address in their WMPs. Changes were also made to Part X.E of the Revised Tentative Fact Sheet to explain that the Permittees may use the WMP to address some or all applicable receiving water limitations and WQBELs in the permit. The language on page F-212 of the Tentative Fact Sheet relating to compliance demonstration for pollutants not addressed in the WMP is consistent with this change. Any WBPC not addressed by the WMP will not be eligible for deemed compliance status such that Permittees will then have to demonstrate compliance through monitoring.</p> <p>The proposed change to add "Time Schedule Orders" to Part IX.A.4.d was not made because "and other milestones set forth in the WMP" is inclusive of Time Schedule Orders where such time schedules have been approved by the Los Angeles Water Board.</p> <p>Proposed changes regarding alternative compliance schedules were not made</p>

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		<p>Management Program consistent with 40 CFR section 122.26(d)(2Xiv) and Part IX of the Order. At a minimum, these priorities must include achieving applicable water quality-based effluent limitations and/or receiving water limitations established pursuant to TMDLs and included in the Order."</p> <p>However, on page F-212, the Fact Sheet implies that if a particular pollutant is not included in the WMP, it will not receive deemed compliance status:</p> <p>"If a Watershed Management Program does not identify a particular waterbody-pollutant combination, compliance with that water body-pollutant combination will not be covered under the Watershed Management Program and the Permittees have to demonstrate compliance with the baseline requirements (i.e., applicable receiving water limitations pursuant to Part V of the Order and with applicable interim and final water quality-based effluent limitations in Part IV and Attachments K-S of the Order for that water body-pollutant combination through monitoring collected from the Permittee's outfall(s) and/or receiving waters as described in Part VII of the Order)."</p> <p>Given the State Water Board Order on the WMPs and the level of rigor and requirements</p>	<p>because the permit does not allow Permittees to propose a schedule in the WMP longer than the compliance schedule set forth by the TMDL unless a TSO has been approved by the Los Angeles Water Board for a WBPC in the TMDL.</p> <p>With regards to allowing functionally equivalent plans for WMPs, see response to comments # F.2 and F.5.</p>

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		<p>being established by that Order, particularly the RAA and milestone compliance requirements, Ventura County Permittees may not want to seek deemed compliance status for some types of pollutants and wish to address those in other ways. The Ventura County Permittees would like the permit to provide more explicit language allowing for Permittees to select the pollutants for which they are seeking coverage in the WMPs.</p> <p>Additionally, as noted previously, the Ventura County Permittees would like the explicit opportunity to submit a functional equivalent document based on existing TMDL implementation plans. This approach was taken for the Stormwater Resource Plan and could be utilized for the WMPs to minimize the cost of development. For example, in a situation where a TMDL implementation plan was developed for a limiting pollutant using a model that meets the RAA requirements, it may be possible for the applicable Permittees to provide a summary overview document with any missing information and an explanation of how the TMDL implementation plan and other existing plans combined address the WMP requirements. For some of the less developed watersheds, such as the Santa Clara River, the only significant water quality concerns are the TMDLs and conducting a significant new planning effort</p>	

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		<p>would be a significant cost without providing significant additional benefit.</p> <p><u>Recommendation:</u> incorporate suggested edits to Part IX, as outlined in Attachment 1</p> <p>[Attachment 1]:</p> <p>A. General</p> <p>4. The Permittee(s) may elect to develop a Watershed Management Program (WMP) using the Los Angeles Water Board’s WMAs. Where appropriate, WMAs may be separated into subwatersheds to focus water quality prioritization and implementation efforts by receiving water. Each WMP shall:</p> <ul style="list-style-type: none"> a. Be consistent with the provisions in Parts IX.B through IX.E of this Order, b. Identify and implement strategies, control measures, and BMPs <u>for the waterbody/pollutant combinations designated in the WMP</u> to ensure that: (i) discharges from the Permittee’s MS4 achieve applicable WQBELs in Part IV and Attachments K through S of this Order pursuant to the corresponding compliance schedules <u>or alternative schedule identified in a Watershed Management Program developed consistent with Part IX.B.8.c.iv of this</u> 	

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		<p><u>Order</u>, (ii) discharges from the Permittee's MS4 do not cause or contribute to exceedances of receiving water limitations in Part V, Part IV.B, and Attachments K through S of this Order, and (iii) non-storm water discharges that are a source of pollutants are prohibited pursuant to Part III.B of this Order. The program shall also ensure that controls are implemented to reduce the discharge of pollutants to the MEP pursuant to Part IV.A.1 of this Order,...</p> <p>d. Modify strategies, control measures, and BMPs as necessary based on analysis of monitoring data collected pursuant to the MRP to ensure that applicable WQBELs, receiving water limitations, TMDL compliance schedules, <u>Time Schedule Orders</u> and other milestones set forth in the WMP are achieved in the required timeframes...</p> <p>5. Selection of Watershed Control Measures. Permittees shall identify strategies, control measures, and BMPs to implement through their jurisdiction-specific storm water management programs, and collectively on a watershed or subwatershed scale, with the goal of creating a cost-effective program to focus</p>	

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		<p>individual and collective resources on water quality priorities.</p> <p>a. The objectives of the Watershed Control Measures shall include:</p> <p>i. Prevent or eliminate non-storm water discharges through the MS4 that are a source of pollutants to receiving waters.</p> <p>ii. Implement pollutant controls necessary to achieve all applicable interim and final WQBELs and/or receiving water limitations pursuant to corresponding compliance schedules in Part IV.B and Attachments K through S of this Order <u>for the waterbody/pollutant combinations designated in the WMP or alternative schedule identified in a Watershed Management Program developed consistent with Part IX.B.8.c.iv of this Order...</u></p> <p>7. Each program shall include the following components:..</p> <p>e. Interim milestones and dates for achievement to ensure that TMDL compliance deadlines will be met <u>or alternative schedule identified in a WMP developed consistent with Part IX.B.8.c.iv of this Order; and...</u></p> <p>8. Compliance Schedules. Permittees shall incorporate compliance schedules in Part IV.B and Attachments K through S of</p>	

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		<p>this Order into the program and, where necessary develop interim requirements and dates for their achievement.</p> <p>Compliance schedules and interim requirements and dates for their achievement shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable WQBELs and/or receiving water limitations.</p>	
F.9	PVP Group	<p>Specific language should be included in the Regional MS4 Permit referencing the authority for integrated planning in the Clean Water Act that allows municipalities to develop integrated stormwater and wastewater management plans, through Public Law 115-436 Water Infrastructure Improvement Act approved on January 14, 2019. This clear statutory authority was not present at the time of E/WMP development. Furthermore, the recent authority granted to the Sanitation Districts of Los Angeles County (LACSD) by SB 485 now allows LACSD to use their facilities and expertise to help member agencies (including all agencies of the Peninsula WMG) to meet MS4 permit requirements. Thus, the door for diversion and treatment of stormwater via the sanitary sewer system has opened and allowed the Peninsula WMG, in collaboration with other permittees, to pursue two key regional diversion projects that would support</p>	<p>Change made. The Los Angeles Water Board agrees that the innovative and collaborative solutions to address water quality and public health goals that underpin these two laws are consistent with the watershed-based approach in the Order. The general provisions in Part IX.A.4, subparts f, g and j of the Order are aligned with the goals of these two laws. As such, references to the Public Law 115-436 Water Infrastructure Improvement Act (establishing section 402(s) of the Clean Water Act related to integrated plans) and SB 485 (updating the Health and Safety Code to expressly authorize LACSD to address stormwater) were added to Part X.B of the Fact Sheet.</p>

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		attainment of TMDLs. These projects have both received Safe Clean Water Regional Program funding. Inclusion of language referencing the Integrated Planning authority in the Regional MS4 Permit will facilitate the inclusion of an integrated approach to managing stormwater as a resource in the updated E/WMPs and will help to build effective, resilient, and sustainable solutions in our communities.	
F.10	PVP Group	The E/WMPs and reasonable assurance analyses need to be updated to incorporate the significant body of stormwater outfall data that has been compiled over four years of Coordinated Integrated Monitoring to: account for the findings of feasibility investigations and planning/design efforts for regional multi-benefit projects identified in the initial E/WMPs; include completed regional and green street projects; and account for regional multi-benefit projects that have been funded for planning, design and/or construction by Watershed Area Steering Committees through the FY2021 Safe Clean Water Stormwater Investment Plans.	No change. The listed actions are part of the required adaptive management process in Part IX.E of the Order.
F.11	PVP Group	The updated E/WMPs will identify necessary stormwater capture and treatment volumes and associated projects to accomplish TMDL targets, with projects identified in a 5-10 year capital improvement program based on the level of funding available from the Safe Clean Water Program and programmed by the	No change. The Board does not agree the approach proposed by the commenter is appropriate for the following reasons: The proposed approach would allow for the incorporation of TMDLs as narrative, or BMP-based, effluent limitations only. According to federal guidance, effluent limitations may be

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		<p>Watershed Area Steering Committees through a transparent stakeholder driven process subject to strict public accountability. Permittees would be deemed in compliance with TMDL waste load allocations and receiving water limitations based on implementation of these projects and yearly reports to the Regional Board by tracking and documenting progress on this implementation.</p>	<p>expressed narratively when the calculation of numeric effluent limits infeasible and the permit's administrative record demonstrates that the specific BMP requirements are adequate to achieve the TMDL waste load allocations consistent with their assumptions and requirements.</p> <p>In this case, the calculation of numeric effluent limitations is feasible, as there are clear numeric waste load allocations in the TMDLs that can be incorporated into the tentative MS4 permit.</p> <p>Numeric effluent limitations are also necessary. The BMP-only approach, which was largely employed in early generation MS4 permits, has not been effective in addressing water quality impairments due to MS4 discharges. Numeric effluent limitations will ensure that BMPs are implemented, and that the BMPs are designed and employed in a way that will achieve the TMDL waste load allocations in the required timeframes.</p> <p>Therefore, the tentative Regional MS4 permit uses a hybrid approach, wherein permittees may comply with interim narrative WQBELs and must comply with final numeric WQBELs at the end of the TMDL implementation schedules, or alternatively, capture the 85th percentile stormwater volume for the drainage</p>

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			<p>area. See also response to comment # H.1.2.a.</p> <p>Further, the proposed approach would limit the projects in the E/WMPs based on the level of funding available from the Safe Clean Water Program. Limiting the projects based on the availability of one funding source may not be adequate to achieve TMDL waste load allocations. See response to comments # F.12 and F.22 with regards to alternative sources of funding other than the Safe, Clean Water Program.</p>
F.12	SGVCOG 2 nd Letter and ULAR Group	Part IX.A; Page 81. Please consider if Safe, Clean Water Program Stormwater Investment Plans (SIPs) are to be included into the Permit as mentioned by the County at the first workshop, how will those projects that remain unfunded be able to achieve compliance through alternative funding?	<p>Change made. The Safe Clean Water Program is one source of revenue and does not preclude permittees from seeking other sources of funding as they have in the past (e.g., Prop 1, Prop 12, Prop 13, Prop 84, American Recovery and Reinvestment Act of 2009 [ARRA], Caltrans cooperative implementation grants, etc.). See changes made to the Revised Tentative Fact Sheet Part XIII.D.3 to specify additional sources of funding.</p> <p>To the extent the commenters are asking whether SIPs will be included in the permit, the Board anticipates that the projects identified in SIPs will largely overlap with projects in WMPs, since the goals of the permit and the Safe, Clean Water Program are well aligned with regard to protecting the</p>

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			beneficial uses of the region's waterbodies from stormwater and urban runoff pollution.
F.13	VCSQMP	<p>Part IX.A.3. Page 81. The WMP is required in IX.4.b and IX.6.b to include control measures to address non-storm water discharges that are a sources of pollutants that are prohibited. However, this provision states that implementation of a WMP does not constitute compliance with the non-stormwater prohibition in Part III.B. We are unclear as to why implementation of an approved Watershed Management Program does not constitute compliance with the non-stormwater discharge prohibition in Part III.B of the Order. If the Watershed Management Program includes the control measures required to address the prohibition in Part III.B, implementation of the program should constitute compliance with the prohibition.</p> <p>Delete the first sentence of IX.A.3.</p>	<p>No change. CWA 402(p)(3)(b)(ii) requires Permittees to “prohibit non-stormwater discharges into the storm sewers.” The Permittees’ obligation to comply with the receiving water limitations and WQBELs and discharge specifications in Parts V.A and IV.A of the Order is independent of the Permittees’ obligation to comply with the effective prohibition of non-stormwater discharges in Part III.A (formerly Part III.B) of the Order. To the extent non-stormwater discharges may be causing or contributing to exceedances of receiving water limitations and/or water quality-based effluent limitations addressed by the WMP, the Order requires the WMP to incorporate water quality control measures to effectively prohibit this source. Inclusion of control measures to address non-stormwater discharges ensures that the WMPs holistically address stormwater and non-stormwater discharges that are impacting a Permittee’s ability to comply with applicable water quality standards.</p> <p>When evaluating compliance with non-stormwater provisions addressed in a WMP, the Board will consider implementation the WMP. However, the Board determined that it was not appropriate to grant “deemed</p>

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			<p>compliance” status for any discharge prohibitions addressed in a WMP because the WMP merely documents the strategies that are already required pursuant to Part III.A (Non-stormwater Discharge Prohibitions) and Part VIII.I (Illicit Discharge Detection and Elimination Program) of the Revised Tentative Order. Further, the WMPs do not include compliance schedules for the non-stormwater discharge prohibition since this discharge prohibition has been in place since the first MS4 permits were issued in the region. By contrast, when “deemed compliance status” is allowed for WQBELs and receiving water limitations addressed in the WMPs, it is because compliance is evaluated based on the implementation of actions and schedules in the WMPs rather than actual achievement of the relevant limitation. See also response to comment # G.13.</p>
F.14	City of Los Angeles	<p>[add underlined to Part IX.A.4.b] “Identify and implement strategies, control measures, and BMPs to ensure that: (i) discharges from the Permittee’s MS4 achieve applicable WQBELs in Part IV and Attachments K through S of this Order pursuant to the corresponding compliance schedules <u>or alternative schedule identified in a Watershed Management Program developed consistent with Part IX.B.8.c.iv of this Order</u>, (ii) discharges from the Permittee’s</p>	<p>No change. See response to comment # F.8.</p>

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		MS4 do not cause or contribute to exceedances of receiving water limitations in Part V, Part IV.B, and Attachments K through S of this Order, and (iii) non-storm water discharges that are a source of pollutants are prohibited pursuant to Part III.B of this Order. The program shall also ensure that controls are implemented to reduce the discharge of pollutants to the MEP pursuant to Part IV.A.1 of this Order,”	
F.15	The Nature Conservancy	<p>Part IX.A.4.b. “Identify and implement <u>strategies</u>, control measures, and BMPs to ensure that: (i) discharges from the Permittee’s MS4 achieve applicable WQBELs in Part IV and Attachments K through S of this Order pursuant to the corresponding compliance schedules, ...”</p> <p>Insert text [after “strategies”]: “, including but not limited to a broad range of control measures, nature-based solutions, BMPs, stormwater and water quality markets and incentive programs, designed to ensure that...”</p>	No change. Proposed change unnecessary and redundant to Part IX.B.5.b of the Order, which describes the different types of BMPs that can be included in a WMP.
F.16	SGVCOG 2 nd Letter and ULAR Group	Part IX.A.4.d; Page 81. Recommend updating to reflect that modifications to the strategies, control measures, and BMPs may also be based on information gathered outside of the MRP.	Change made. Other applicable information gathered outside the MRP can also be considered. Clarification was added to Part IX.A.4.d of the Order.
F.17	Heal the Bay, the Natural Resources	Monitoring sufficient to evaluate compliance is required by Section 308(a) of the Clean Water Act (CWA). Additionally, section IX.A.4.d. of	No change. Comment noted.

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	Defense Council, and Los Angeles Waterkeeper	the Tentative Permit acknowledges that monitoring sufficient to determine compliance with water quality based effluent limits (WQBELs), receiving water limitations, total maximum daily load (TMDL) compliance schedules, and other milestones set forth in the watershed management program (WMP) is necessary. A combination of both end-of-pipe and receiving water monitoring is necessary to ensure compliance with these requirements, and we therefore support the continued inclusion of this section IX.A.4.d. language.	
F.18	SGVCOG 2 nd Letter and ULAR Group	Part IX.A.4.e; Page 81. Recommend providing more detailed description on the “appropriate opportunity for meaningful stakeholder and community input”. This could potentially take many forms and would be helpful to understand what the Board deems as appropriate.	No change. The determination of what is “appropriate opportunity for meaningful stakeholder and community input” is left to the discretion of the Permittee. Some examples of what the Board considers appropriate may include but are not limited to stakeholder meetings that inform the public about the WMP and solicit input on potential projects to include in the WMP, outreach to residents in communities where proposed regional projects are planned to inform them of the project and how the project benefits the community, and providing a platform for the public to provide oral or written comments such as a website or web-based application and/or development of a stakeholder workgroup (or leveraging of an existing stakeholder workgroup, e.g., Watersheds Coalition of Ventura County, Ventura River

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			<p>Watershed Council, Santa Clara River Watershed Committee). For Permittees in Los Angeles County, it is anticipated that the Watershed Coordinators established for each Watershed Area Steering Committee under the Safe, Clean Water Program can be instrumental in providing opportunities for meaningful stakeholder and community input such as those described above.</p>
F.19	<p>Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson, Flintridge, Glendora, Irwindale, La Cañada, and Rancho Palos Verdes</p>	<p><u>Remove Language that Deters WMP and EWMP Development</u> Remove Section IX.A.4.g.</p> <p>Section IX.A.4.g. effectively requires that innovative technologies and green infrastructure must be used in the development of a WMP, which significantly limits the flexibility of a WMP and specifies the manner of compliance. WMPs should have the flexibility of implementing the watershed control measures that meet compliance.</p>	<p>Change made. Part IX.A.4.g was not removed but the language was clarified to better reflect the Board’s intent. Part IX.A.4.g of the Order encourages the use of green infrastructure but does not prevent Permittees from using other effective innovative technologies, approaches and practices. The intent of the provision was not to create a prescriptive requirement for green infrastructure; therefore, the word “including” has been replaced with “such as.”</p>
F.20	<p>Santa Ana Region MS4 Permittees</p>	<p><u>Remove Language that Constrains WMP Development</u></p> <p>One of the key purposes of the WMPs appears to be to facilitate multi-agency collaboration and exploration of innovative control measures to best address watershed-specific needs. This purpose is supported in Order 2015-0075:</p> <p>“While storm water poses an immediate water quality problem, we believe that a rigorous</p>	<p>Change made. See response to comment # F.19. See also response to comment # F.9.</p>

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		<p>and transparent watershed-based approach that emphasizes low impact development, green infrastructure, multi-benefit projects, and capture, infiltration, and reuse of storm water is a promising long-term approach to addressing the complex issues involved. We must balance requirements for and enforcement of immediate, but often incomplete, solutions with allowing enough time and leeway for dischargers to invest in infrastructure that will provide for a more reliable trajectory away from storm water-caused pollution and degradation.” (P.79)”</p> <p>The Santa Ana Region MS4 Permittees have been successfully collaborating for years and support permit language that effectively incentivizes these types of efforts. To be effective tools for these efforts, the WMP requirements should not constrain the collaboration or options available to watershed groups to address identified constituents of concern. As a result, the Santa Ana Region MS4 Permittees suggest consideration of the following modifications to the WMP provisions in the Tentative Order.</p> <p>Section IX.A.4.g. effectively requires that innovative technologies and green infrastructure must be used in the development of a WMP, which significantly limits the flexibility of a WMP and specifies the</p>	

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		<p>manner of compliance. A WMP may be able to specify watershed control measures to meet the permit requirements without the use of innovative technologies or green infrastructure. WMPs should have the flexibility of implementing the watershed controls measures that meet compliance and not specific types of watershed control measures.</p> <p>Remove Section IX.A.4.g.</p>	
F.21	The Nature Conservancy	<p>Part IX.A.4.g. "Incorporate effective innovative technologies, approaches and practices, including green infrastructure;"</p> <p>Replace "green infrastructure" with: "distributed and centralized nature-based solutions (NBSs) including: 1. vegetated nature-based solutions such as bioretention and bioretention basins, stormwater wetlands, green roofs, and where site constraints exist, non-vegetated nature-based solutions such as subsurface infiltration and permeable paving."</p>	<p>Change made. The proposed change to Part IX.A.4.g of the Order was not made because this is redundant with Part IX.B.5.b of the Order. The term "green infrastructure" is a catch-all phrase. However, the Board added the "green infrastructure" definition in CWA § 502(27) to Attachment A of the Revised Tentative Order to clarify the scope of this phrase.</p> <p>Additionally, the Board made a change to Part IX.B.5.b.i.(d) of the Revised Tentative Order to add "Other" before "green infrastructure," since the structural controls in Part IX.B.5.b.i.(a) are also types of green infrastructure.</p>
F.22	Los Angeles County and LACFCD 2 nd Letter	Order/ Part IX.A.4.i/ Pg. 82. BMP needs and associated implementation costs were identified through the development of the E/WMPs following the 2012 MS4 Permit. Financial Strategies were identified and	<p>No change. With regard to solely using Safe, Clean Water Program funds to achieve compliance with receiving water limitations and WQBELs, see response to comment # F.12. WMPs developed by Los Angeles</p>

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		<p>evaluated through the process of E/WMP development. Through the evaluation of costs and financial strategies, it was determined that the current financial funds would not be adequate, and a more substantial and ongoing source of funding would be required. The passage of Measure W – the Safe Clean Water Program (SCWP) was the solution. Within the Tentative Order, there is a provision (not in the 2012 MS4 Permit) that requires Permittee(s) to detail how they will obtain funding and specify alternative funding sources if funding is not available for near-term watershed control measures (within 5 years from the effective date of this Order). Given the approval of the SCWP, the County and LACFCD would like to have the opportunity to outline what we can achieve in our EWMPs and SCWP Stormwater Investment Plans (SIPs). To support our focus on implementing SCWP, the County and LACFCD request that the new requirement to outline the plan to obtain funding and the historical requirement to include a funding strategy in the WMPs be removed.</p> <p>The SCWP is expected to generate \$285 million annually for at least 30 years with a priority towards implementation of the MS4 Permit. On October 13, 2020, the Board of Supervisors approved the first round of the Safe Clean Water Program Stormwater</p>	<p>County MS4 Permittees can cite the Safe, Clean Water Program as a key element of a financial strategy. The requirement to discuss plans to obtain funding and anticipated funding sources for the near-term (within 5 years from the effective date of the Order) watershed control measures is intended to provide the Board assurance that Permittees will pursue the necessary funding to achieve the proposed actions and milestones in the WMP, particularly those to be implemented during the 5-year permit term. For TMDL final compliance dates that fall outside of the permit term, Permittees can propose long-term milestones (beyond the 5-year permit term) for those control measures, and meanwhile work on securing funding.</p> <p>With regard to compliance with the permit using the maximum extent practicable (MEP) standard, CWA 402(p)(3)(B) requires permittees to implement MEP as well as such other provisions that the permitting agency determines appropriate for the control of such pollutants. These other appropriate provisions to control pollutants include WQBELs. Because MS4 discharges cause or contribute to impairments in many waterbodies in the Los Angeles Region, MEP, which is equivalent to a technology based standard, is not sufficient to meet water quality standards and so other provisions, in the form of</p>

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		<p>Investment Plans, with \$95 million worth of over 41 infrastructure projects, 16 technical resources program projects, 4 scientific studies, and 12 watershed coordinators were awarded. In total, the Safe Clean Water Program will provide \$379 million in funding over five years with matching funding from municipalities of \$339 million. The 41 infrastructure projects will capture stormwater from 61,000 acres covering over 21 municipalities</p> <p>It is essential that the MS4 Permit is given the fullest opportunity for success. This is especially critical in the context of the recently passed SCWP that is providing the largest commitment of public resources in Los Angeles County history to implement clean water projects such as those contained in the approved WMPs. Therefore, the County of Los Angeles requests that the Regional MS4 Permit be revised to reflect the funds available through the SCWP. Compliance with the MS4 Permit should be considered reasonably achieved to the maximum extent practicable with the implementation of the SCWP and defined as such as time is needed to plan and build stormwater capture projects in conjunction with the Safe Clean Water Program.</p>	<p>WQBELs, are appropriate (see also response to comment # H.1.2.a). Limiting the projects in WMPs to those that can be solely funded by the Safe, Clean Water Program would likely not meet WQBELs per the compliance schedules in the permit. Permittees must therefore pursue other sources of funding for control measures as necessary.</p>
F.23	City of Los Angeles	Main Body, Part IX.A.4.i, Page 82. Through the development of the WMPs following the	No change. See response to comment # F.22.

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		<p>adoption of the 2012 MS4 Permit, BMP needs and associated implementation costs were identified. Additionally, financial strategies were identified and evaluated as part of WMP development. The evaluation of costs and financial strategies indicated that current financial resources were inadequate to fully implement WMPs and a more robust dedicated funding source would be needed. The passage of Measure W and creation of the SCWP provides such a dedicated funding source and represents one of the greatest achievements related to clean water in the history of the state. The Tentative Order contains a provision requiring Permittee(s) to discuss how they plan to obtain funding and what the anticipated funding sources are if funding is not available for near-term watershed control measures (within 5 years from the effective date of this Order). While grants can play a minor supporting role in funding, grants are insufficient to make a significant difference in meeting the implementation requirements of a large municipality such as the City. Given the recent passage of Measure W, Permittees will not be able to identify new mechanisms to obtain meaningful funding beyond existing municipal resources and new SCWP funds. As such, the new requirement to discuss plans for obtaining funding, as well as the</p>	

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		<p>historical requirement to include a funding strategy in the WMPs, should be removed.</p> <p>“Include an estimate of the capital and operation and maintenance costs of implementing the WMP and a financial strategy to fund those costs. Discuss which program costs have secured funding and the corresponding funding sources. If funding is not available for near-term watershed control measures (within 5 years from the effective date of this Order), discuss how Permittee(s) plan to obtain funding and what the anticipated funding sources are.”</p>	
F.24	The Nature Conservancy	<p>[Add the underline language to Part IX.A.4.j]</p> <p>“Implement structural watershed control measures such as multi-benefit regional projects <u>and nature-based solutions</u>. Permittees and other partners are encouraged to collaborate on multi-benefit, <u>nature-based solutions and</u> regional projects.”</p>	<p>No change. Structural watershed control measures are defined in Part IX.B.5.b of the Order, and nature-based solutions are specifically listed in Part IX.B.5.b.i.(a) of the Order.</p>
F.25	SGVCOG 2 nd Letter and ULAR Group	<p>Part IX.A.4.k; Page 82. Strategies, control measures, and BMPs should be designed to achieve applicable WQBELs and RWLs, which can be demonstrated through an RAA. Reference to retaining the volume of the 85th percentile, 24-hour storm event should be reserved for later discussion that this option provides deemed-compliance for the associated drainage area without requiring an</p>	<p>Change made. Clarification added to Part IX.A.4.k and IX.B.8 of the Revised Tentative Order. Furthermore, the Board concurs that watershed control measures should consider cost-effectiveness as indicated in Part IX.A.4.f of the Order.</p>

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		<p>RAA. In many cases, building such control measures is infeasible in most areas and exceeds necessary controls to attain the water quality objectives, where costs could have been better spent in other areas to address the variable and spatial extent of WQBELs and RWLs. Increasing project size to capture the 85th percentile, 24-hour storm event may result in the misapplication of limited funding resources. Watershed Management is complex and requires optimum target investments and appropriate water quality standards.</p>	
F.26	<p>Heal the Bay, the Natural Resources Defense Council, and Los Angeles Waterkeeper 2nd Letter</p>	<p>The Tentative MS4 Permit is Inconsistent with State Board Order # 2020-XXXX On November 4, 2020, the State Board issued Order Number 2020-XXXX (“Order”), addressing inadequacies in nine WMPs and one EWMP developed pursuant to the 2012 MS4 Permit. The State Board Order requires incorporation of specific amendments and directs the RWQCB to ensure that any future WMPs conform to the State Board Order requirements. The Tentative MS4 Permit must comply with the requirements of the State Board’s Order.</p> <p>The Tentative MS4 Permit was issued prior to finalization of the State Board’s Order and does not address many of the Order’s requirements. While the Environmental Groups assume that the next draft of the</p>	<p>Change made. The permit has been revised per State Board WQ Order # 2020-0038. Regarding the specific aspects raised by the commenter, the following changes were made. Part IX.B.2 was revised to clarify source assessment requirements, Part IX.B.7.g was added to address unavailable information, Part IX.B.8.f was added to clarify limiting pollutant approach considerations, and Part IX.B.7.h of the Revised Tentative Order was added to address load reductions. Monitoring requirements are already addressed in Part IX.D of the Order.</p> <p>The Los Angeles Water Board agrees that WMPs shall not include statements intended to make the implementation of actions contingent upon funding. As done during the WMP approval process under the 2012 and</p>

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		<p>Tentative MS4 Permit will comply with the Order, the Tentative MS4 Permit as distributed would be illegal if adopted.</p> <p>To ensure that the areas addressed by the Order are addressed by staff in the next draft, we again provide the following items the Order identifies as required in watershed management programs. Each of these items must be explicitly noted in the forthcoming MS4 Permit as mandatory for permittees that decide to participate in such programs:</p> <ul style="list-style-type: none"> • An explanation of how information considered in source assessments was used and why any relevant, available data was disregarded. • Identification of unavailable, needed information, the assumption(s) being made to substitute for that information, and enforceable commitments to acquire and incorporate the information, with deadlines. Monitoring must be performed to justify a grant of deemed-compliance for each water body-pollutant combination. • Explanation and justification for the selection of limiting, or “controlling” pollutants. • An account clearly detailing the bases for each pollutant class. To be in the same class, pollutants must have similar fate and transport mechanisms, be 	<p>2014 MS4 Permits, the Board will review the WMPs and require removal of any contingency statements for funding. No revisions to the permit are necessary.</p> <p>The State Board WQ Order # 2020-0038 does not require Permittees to propose schedules that must be adequate for measuring progress on a watershed scale “once every two years”. Rather, this requirement is quoted from the 2012 Los Angeles County MS4 Permit, coincides with the 2-year adaptive management cycle, and is used for discussion to address the issue of enforceable compliance schedules. Note that the Regional MS4 Permit’s requirement to measure progress “throughout the term of this Order” in Part IX.B.9.a of the Revised Tentative Order coincides with the Regional MS4 Permit adaptive management cycle and meets the intent of the State Board Order. Per the State Board Order’s conclusion on this issue of enforceable compliance schedules, language is added to Parts IX.B.7.h, IX.B.9.c.ii, and IX.B.9.c.iii.(d) of the Order to require interim milestones to be no more than 5 years apart.</p> <p>For non-structural and non-modeled structural controls, the comment mischaracterizes the direction in the 2020 State Board Order. Per WQ-2020-0038, Permittees can receive</p>

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		<p>addressable via the same types of control measures, and be addressable within the same timeline already contemplated as part of the WMP. Permittees must demonstrate that similarly-classed pollutants meet these three requirements.</p> <ul style="list-style-type: none"> • A table that identifies each water body-pollutant class. • Compliance schedules for each water body-pollutant combination or class of water body-pollutant combinations following reevaluation of limiting pollutant approaches. Schedules must be adequate for measuring progress on a watershed scale once every two years; must cover strategies, control measures, and BMPs; and must include compliance deadlines, interim milestones and dates, and special provisions in cases of exceedances of receiving water limitations not otherwise addressed by TMDLs. • Expected load reductions at regular milestones and how these reductions will be measured and demonstrated for each water body-pollutant combination addressed. • Numeric interim milestones that are no more than 5 years apart. • For non-structural and non-modeled structural controls, demonstration of actual achievement of projected load reductions 	<p>deemed compliance status for non-modeled controls provided the RAA provisions authorize a quantitatively-based process other than modeling. (WQ 2020-0038, pp. 81-82, noting “[w]e recognize that in some instances it may be appropriate and feasible to quantitatively evaluate through a process other than modeling the projected impact of some non-modeled controls on water quality. Should future iterations of the Order provide for that as part of the process of its development, then milestones dependent on those controls <i>would not be subject to the requirement to demonstrate actual water quality improvement...</i>” [emphasis added].) Part IX.B.8.b of the Revised Tentative Order requires that RAAs include “quantitative analysis” and specifically authorizes quantitative analyses that are not based on modeling. Note, however, that failure to include an adequate quantitative analysis would result in Permittees needing to demonstrate actual achievement of water quality milestones. As such, Permittees are required to report the demonstration of actual achievement of projected load reductions as well as implementation of underlying actions in the WMP Progress Report Form included in Attachment H of the Order. Additionally, Part X.B.1.b of the Order has been updated to clarify that Permittees implementing BMPs that have not been quantitatively justified</p>

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		<p>as well as actual implementation of underlying actions.</p> <ul style="list-style-type: none"> • The specific sub-watershed locations for structural BMPs and the corresponding volumetric benchmarks for treatment and/or capture. • Removal of all statements that might be read to make implementation obligations contingent on funding or information gathering. • For permittees with discharges into Areas of Special Biological Significance, demonstration of actual compliance with the General Exception’s non-stormwater discharge prohibition. • For permittees with discharges into Areas of Special Biological Significance and where data show alterations of natural water quality, (1) demonstration that outfalls achieve either Ocean Plan Table 1 water quality objectives or a 90% reduction in pollutant loading, and (2) additional BMPs to address the alteration of natural water quality. 	<p>(through modeling or other alternative means) may only be deemed in compliance if the Permittees actually achieve the associated water quality milestone.</p> <p>The specification of the specific sub-watershed locations for structural BMPs and the corresponding volumetric benchmarks for treatment and/or capture is already addressed by Part IX.B.7.c of the Order.</p> <p>With regard to demonstrating compliance with the ASBS non-stormwater discharge prohibition, questions 4.3 and 4.4 are added to Attachment H, Annual Report Form.</p> <p>However, no changes to the ASBS non-stormwater discharge prohibition are incorporated into the Tentative Order because the change requested by the commenter is inconsistent with the Ocean Plan. As explained in State Board’s WQ Order # 2020-0038 on page 154, “[t]he language in the [General Exception] regarding Table [1] or a 90% load reduction is clearly intended as a target for design of BMPs and not as an ultimate compliance endpoint. Ultimate compliance is required in the receiving water in order to meet natural water quality.” (<i>Id.</i> at p. 155.) Where Permittee data shows a confirmed alteration of natural water quality, the Permittee is required to update the ASBS</p>

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			<p>compliance plan in their WMP in accordance with the requirements in section 1.A.2.h of Attachment B to State Water Board Resolution No. 2012-0012, <i>the Special Protections for Areas of Special Biological Significance, Governing Point Source Discharges of Storm Water and Nonpoint Source Waste Discharge</i>. The Tentative Order cannot change or alter State Water Board requirements.</p>
F.27	SGVCOG 2 nd Letter and ULAR Group	<p>Part IX.B.4.a; Page 83. Recommend also considering the severity of impaired beneficial uses and the relative level of exceedance of WQBELs and Receiving Water Limitations when sequencing the water quality priorities for TMDLs, rather than solely based on the compliance schedules.</p>	<p>Change made. The Board has revised Part IX.B.4 of the Order to allow greater flexibility in sequencing management actions, while identifying factors that must be considered in this decision-making process including compliance schedules.</p>
F.28	City of Los Angeles	<p>[add underlined to Part IX.B.5.a.ii]: “Implement pollutant controls necessary to achieve all applicable interim and final WQBELs and/or receiving water limitations pursuant to corresponding compliance schedules in Part IV.B and Attachments K through S of this Order <u>or alternative schedule identified in a Watershed Management Program developed consistent with Part IX.B.8.c.iv of this Order.</u>”</p>	<p>No change. See response to comment # F.8.</p>
F.29	SGVCOG 2 nd Letter and ULAR Group	<p>Part IX.B.5.b; Page 84. Recommend adding back in the retrofitting of existing developed areas to the list of potential control measures.</p>	<p>No change. The Watershed Control Measures in Part IX.B.5.b of the Order may be implemented in areas of existing</p>

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			development or new development. Therefore, the Board concluded that separately identifying retrofitting of existing developed areas as a Watershed Control Measure was redundant and potentially confusing.
F.30	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.5.b.i.(a); Page 84. Recommended removing “Vegetated” before nature-based solutions. There are nature-based solutions that aim to restore/promote natural processes that do not necessarily rely on vegetation.	No change. See response to comment # F.21.
F.31	The Nature Conservancy	Part IX.B.5.b.i.(d). “ <u>Green infrastructure</u> (e.g., permeable pavement);” This term [green infrastructure] is not included in the definitions and can be interpreted in many ways. It needs to be defined if it is going to be used.	Change made. See response to comment # F.21.
F.32	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.5.b.ii.(b); Page 84. Please clarify if Permittees are required to adopt plastic bag, straw and styrofoam (sic) bans as proposed as non-structural controls regarding human source management.	No change. Part IX.B.5.b of the Order lists examples, not requirements, of watershed control measures that Permittees can choose to propose in their WMP. Therefore, Permittees are not required to adopt plastic bag, straw and Styrofoam bans.
F.33	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.7.a; Page 85. Requiring legal authority to implement the identified control measures could potentially limit beneficial collaboration across parties that are not direct Permittees.	Change made. Permittees are responsible for ensuring that the watershed control measures in the WMP are implemented and therefore must have the legal authority to do so. Part IX.B.7.a of the Order does not require other non-Permittees to have legal authority when collaborating on implementing watershed control measures. Therefore, Part IX.B.7.a should not prevent Permittees from

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			collaborating with non-Permittees to implement watershed control measures. However, the Board has clarified Part IX.B.7.a by adding “independently or collaboratively” before “implement the Watershed Control Measures identified in the program...”
F.34	City of Los Angeles	[add underlined to Part IX.B.7.e]: “Interim milestones and dates for achievement to ensure that TMDL compliance deadlines will be met or <u>alternative schedule identified in a WMP developed consistent with Part IX.B.8.c.iv of this Order</u> ; and”	No change. See response to comment # F.8.
F.35	City of Long Beach	<u>Section IX.B.7.g., Page 85</u> Please provide clarification and guidance on the RAA requirements in regards to: “relevant to the WMP’s environmental setting and conditions”, “quantitative reasoning”, and “analysis demonstrating how control measures will result in attainment of applicable WQBELs and receiving water limitations.”	Change made. See Part IX.B.8, subparts a and b of the Revised Tentative Order. The guidance and clarification are provided in the Los Angeles Water Board’s Guidelines for Conducting Reasonable Assurance Analysis in a Watershed Management Program, Including an Enhanced Watershed Management Program dated March 25, 2014 and any updates thereto; and Developing Reasonable Assurance: A Guide to Performing Model-Based Analysis to Support Municipal Stormwater Program Planning dated February 2017 prepared by Paradigm Environmental for U.S. EPA Region 9.
F.36	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.7.g; Page 86. The RAA will be dependent upon the availability of data. Recommend some language that acknowledges this limitation.	No change. Part IX.B.7.g of the Revised Tentative Order acknowledges that that the RAA is dependent on available data.

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F.37	Los Angeles County and LACFCD 2 nd Letter	<p>Order/ Part IX.B.7/ Pg. 86. RAAs are inherently complicated and must be developed in a manner that reflects available data. The limiting pollutant approach of E/WMPs provided a creative, robust, and innovative quantitative framework to (1) determine which pollutants drive implementation requirements and (2) address pollutants that were not directly modeled. The Permit should clarify expectations around non-modeled pollutants to avoid a shift away from the most problematic pollutants towards pollutants that exceed less frequently. Most of the E/WMPs tackled the most problematic TMDL pollutants including bacteria, metals, and nutrients. These Category 1 pollutants were most commonly categorized as limiting pollutants because the models show that if we implement networks of stormwater infrastructure to address bacteria, metals and nutrients then the other pollutants will also be addressed. These are also the pollutants-of-focus because our programs and the Regional Board have spent years studying and planning for them.</p> <p>The Permit should clarify that prioritization of limiting pollutants, over pollutants that exceed less frequently, is encouraged. Without this clarification, the E/WMPs could be misunderstood to be deficient because it focused on these limiting pollutants. It is</p>	<p>Change made. Part IX.B.8.b of the Revised Tentative Order authorizes the use of numeric analysis and quantitative methods other than modeling. This language applies to all watershed control measures in the WMP. An explicit reference to non-modeled controls would be redundant.</p> <p>Also note that the State Board Order WQ 2020-0038 requires the Board to include permit language explaining procedures for quantitatively demonstrating reasonable assurance based on controls for which a non-modeled based quantitative approach is appropriate. Therefore, the commenter's proposed language was added as appropriate to the new Part IX.B.8.b of the Order.</p>

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		<p>important to avoid interpretation that Permittees are required to outline commitments to rigorously gather additional information on the pollutants that exceed much less frequently. Such an interpretation would require Permittees to develop new expensive programs focused on Category 3 pollutants that will pull resources away from the pollutants that matter most. To address this potential diversion of resources, the Permit should include language that acknowledges the difference between Category 1 and Category 3 pollutants.</p> <p>The County and LACFCD request the addition of language in the Permit that clarifies that nonstructural and non-modeled control measures are viable components of E/WMP implementation and compliance determination, as long as a reasonable quantification of their effectiveness and transparent assumptions are provided. The attached revised Permit proposes language similar to the following under IX.B.7.i.(a) (shown in <u>underlined text</u> below):</p> <p>i. Permittees shall address all WBPCs in its RAA. Where appropriate, Permittees may identify the “limiting” pollutant(s), which if controlled to achieve the applicable WQBEL and/or receiving water limitation will ensure</p>	

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		<p>that the applicable limitations for other pollutants are also achieved.</p> <p>(a) For WBPCs that are addressed by the limiting pollutant approach but not modeled, the RAA shall provide quantitative reasoning for how control of the limiting pollutant(s) will address the identified non-modeled WBPCs and their applicable WQBELs and receiving water limitations. <u>The quantitative reasoning regarding the non-modeled pollutants could be based on one or more relative metrics such as magnitude of loading, frequency of exceedance, required percent reduction, or similar as compared to the modeled pollutant(s). For lower priority pollutants (e.g., Category 3 pollutants, pollutants with low exceedance frequency, etc.), the quantitative reasoning should include a reasonable quantitative analysis</u></p> <p>In June 2020, the LACFCD recently released the Watershed Management Modeling System (WMMS) 2.0 which is planned to be used for most of the WMP updates due in June 2021. The LACFCD would be happy to set up a time with Regional Board staff to go over WMMS 2.0 and explain this comment.</p>	
F.38	Los Angeles County and	Order/ Part IX.B.7 / Pg. 86. Non-structural control measures play an integral role in the portfolio of water quality improvement options	No change. The Order is already clear that non-structural measures can be used to achieve compliance with WQBELs and

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	LACFCD 2 nd Letter	<p>identified in E/WMPs. While structural BMPs are implemented to reduce pollutant loading in stormwater runoff, non-structural BMPs are implemented with the source of pollutants in mind, by preventing pollutants from reaching stormwater runoff in the first place. Non-structural BMPs are frequently more cost-effective while having the potential for implementation over a larger area compared to structural BMPs. Additionally, non-structural BMPs are often the first set of controls to be implemented in a watershed program given the cost effectiveness of these controls and the fact that interim milestones often occur in a timeframe (less than two years) that is too short to design, permit, fund, and build structural control measures.</p> <p>The Permit should clarify that non-modeled and non-structural control measures can be used within the E/WMPs for achieving milestones and RWLs. Without this clarification, the Permit could appear to favor structural BMPs over non-structural BMPs, regardless of pollutant or local variability. As noted by United States Environmental Protection Agency (USEPA) Region 9 in the 2018 summary of workshops on improving MS4 permits [footnote] 1: [footnote 1]: USEPA Region 9, Improving Stormwater Program Monitoring, Evaluation, Tracking, and Reporting Workshop Report</p>	<p>receiving water limitations in WMPs and that non-modeling approaches can be used for the RAA. Part IX.B.7 of the Order does not favor either structural or non-structural watershed control measures as a component of a WMP. Part IX.B.8.b (formerly IX.B.7.g.i in the Tentative Order) states that a permittee can use a non-modeling-based analysis (e.g., empirical data analysis) for its RAA.</p> <p>Adding more language on non-structural control measures would be redundant.</p>

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		<p>and Recommendations Report Date: October 12, 2018.</p> <p>“Since source control is preventative, not treatment-based, it is often difficult to accurately quantify the impact that total or partial removal of a specific source has on the quality of a water body. Typical stormwater management models only account for pollutant removal after a rainfall event (e.g., pollutants are already on the ground and are transported via runoff into conveyances and treatment control BMPs). True source controls remove pollutants from the environment before they have a chance to contact runoff. Several workshop participants expressed the belief that true source control is the most effective BMP and contributes greatly toward meeting regulatory goals like TMDL waste load allocations.”</p> <p>The County and LACFCD request the addition of language into the Permit that clarifies that non-structural and non-modeled control measures are viable components of E/WMP implementation and compliance determination, as long as a reasonable quantification of their effectiveness and transparent assumptions are provided. The attached revised Order proposes language similar to the following under IX.B.7.g:</p>	

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		<p><i>viii. Non-structural activities and watershed control measures may be used in the RAA as a component of the WMP. The RAA shall include, at a minimum, reasonable quantitative reasoning to justify assumptions regarding the effectiveness of the non-structural activities and non-structural watershed control measures for addressing modeled and non-modeled WBPCs. The RAA shall explicitly outline the anticipated effectiveness of non-structural activities/control measures relative to structural control measures in the WMP.</i></p>	
F.39	<p>Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson, Flintridge, Glendora, Irwindale, La Cañada, and Rancho Palos Verdes</p>	<p><u>Keep Language Allowing Use of Available RAA Guidance</u> Having the flexibility to utilize any available RAA guidance is essential to allow Permittees to match the constituents of concern, strategies to be assessed, and available data and information to develop an RAA that meets Order 2015-0075. Restricting the types of analysis that can be used to conduct the RAA could force the use of tools that are not appropriate for a given situation.</p>	<p>No change. See Part IX.B.8.a of the Revised Tentative Order. The Regional MS4 Permit continues to allow Permittees to use available RAA guidance documents.</p>
F.40	<p>Santa Ana Region MS4 Permittees</p>	<p><u>Maintain the Language Referencing the Ability to Use Available RAA Guidance</u> The Santa Ana Region MS4 Permittees strongly support maintaining the language referencing available RAA guidance in the Tentative Order. Having the flexibility to utilize any available, including future, RAA guidance is critical for allowing Permittees to match the</p>	<p>No change. See response to comment # F.39 with regard to usage of available RAA guidance and response to comment # F.37 with regard to non-modeling based analyses.</p>

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		<p>constituents of concern, strategies to be assessed, and available data and information to develop a RAA that meets the level of rigor required by Order 2015-0075. Restricting the types of analysis that can be used to conduct the RAA does not provide more rigor, but rather could force the use of tools that are not appropriate for a given situation.</p> <p>Additionally, as noted in the Section IX.B.7.g.i, in some cases, non-modeling-based analyses may be appropriate and we fully support maintaining the language in this section.</p>	
F.41	SGVCOG 2 nd Letter, LSGR Group, City of Long Beach, and ULAR Group	Part IX.B.7.g.ii; Page 86. Recommend noting that the calibration of models should also be consistent with the applicable critical conditions for the pollutants of concern.	<p>No change. Rather than being included in the Order, specific details regarding model calibration are included in reasonable assurance analysis guidance documents. As noted in the <i>Guidelines for Conducting Reasonable Assurance Analysis in a Watershed Management Program, Including an Enhanced Watershed Management Program</i>, model calibration is necessary to ensure that the calibrated model properly assesses all the variables and conditions in a watershed system. Calibration should result in model parameter values that produce the best overall agreement between simulated and observed values throughout the calibration period. This includes calibration for applicable critical conditions, baseline conditions, and frequently occurring events. Calibration of stormwater models for rain events smaller</p>

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			than those of the critical condition is also important as the smaller rain events occur more frequently, and appropriate sensitivity is necessary to demonstrate the effectiveness of proposed control measures to address those events.
F.42	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.7.g.iii; Page 86. Given the extent of available data, recommend noting that validation should be performed, if relevant independent data not required for calibration are available.	No change. Model validation is necessary and adequate data should be available from CIMPs and IMPs.
F.43	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.7.g.iv; Page 86. Recommend providing additional guidance/recommendations on the quantitative reasoning required to demonstrate a WBPC being addressed by the limiting pollutant approach.	Change made. See response to comment # F.37.
F.44	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.7.g.v; Page 86. Please clarify if the use of a modified WMMS model calibrated for a particular watershed still satisfies the QA/QC requirements.	No change. Part IX.B.8.g of the Revised Tentative Order states that the use of WMMS satisfies the QA/QC requirements. The Board encourages Permittees to use documented, watershed specific model inputs when running WMMS.
F.45	SGVCOG 2 nd Letter and ULAR Group	Part IX.B.7.g.vi; Page 86. Recommend noting that the assessment of control measure performance will be an iterative process as more of this type of data is gathered in the WMA as control measures are implemented.	No change. The proposed change introduces unnecessary redundancy. Assessment of control measure performance is part of the adaptive management process per Part IX.E of the Order.
F.46	City of Los Angeles	[Part IX.B.8 - omit part of sentence as follows]: “Compliance Schedules. Permittees shall incorporate compliance schedules in Part IV.B and Attachments K through S of this	Change made. See Part IX.B.9 of the Revised Tentative Order. Permittees are required to incorporate any TMDL compliance schedules for the WBPCs proposed in their

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		<p>Order into the program and, where necessary develop interim requirements and dates for their achievement. Compliance schedules and interim requirements and dates for their achievement shall be used to measure progress towards addressing the highest water quality priorities and achieving applicable WQBELs and/or receiving water limitations.”</p>	<p>WMP per Part IV.B and Attachments K through S of the Order. If a TSO has been approved by the Los Angeles Water Board for a WBPC in the TMDL, Permittees shall incorporate the extended time schedule in the WMP along with the required interim requirements and dates for their achievement.</p>
F.47	City of Los Angeles	<p>[Part IX.B.8.c.iv becomes v. Add new iv as follows]: iv. If a Permittee determines that an applicable interim and/or final WQBEL and/or receiving water limitation in Part IV and Attachments K through S of this Order or milestone for a water quality priority related to addressing exceedances of a receiving water limitation in Part V.A and not otherwise addressed by TMDLs in Part IV and Attachments K through S of this Order that is effective within the term of this Order is not attainable when considering technical, environmental review and permitting, and economic factors (including consideration of Benefit Assessment Program or SCWP funding capabilities), the Permittee may submit a Permit-Term Project List in the WMP. If approved, the Permit-Term Project List replaces the schedule requirements identified in Part IX.B.8.c.i-iii and shall act as an alternative compliance schedule.</p>	<p>No change. In a WMP, Permittees have the flexibility to propose actions and compliance schedules to comply with Receiving Water Limitations that are not addressed by TMDLs. A Permit-Term Project list for separate approval is unnecessary. Also note that Permittees can request modifications to the WMP including actions and milestones for Receiving Water Limitations not addressed by TMDLs at any time subject to Board approval.</p> <p>For TMDLs, Permittees must incorporate TMDL schedules in their WMP per Part IV.B and Attachments K-S of the Order. Permittees cannot use a Permit-Term Project List within a WMP that is contrary to a final compliance deadline for a TMDL. However, a final TMDL compliance deadline can be revised through a Basin Plan Amendment or extended through a Time Schedule Order. If a final TMDL compliance deadline is revised through a Basin Plan Amendment or extended through a Time Schedule Order, the WMP can be</p>

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		<p>(a) Final compliance deadlines occurring within the permit term for all applicable WQBELs and/or receiving water limitations in Part IV.B and Attachments K through S of this Order;</p> <p>(b) The following shall be provided as part of the Permit-Term Project List:</p> <ul style="list-style-type: none"> i. Summary Information: Permittee (include a lead Permittee and list of all Permittees if a multi-Permittee project is listed), Project name, subwatershed, and latitude/longitude; ii. Technical Information: Expected project type(s) and the volume capture or target load reduction; iii. Funding Information: Total projected costs and funding source(s); iv. Schedule Information: Expected start and completion date and at least two milestones within the Permit term to measure progress if the completion date is outside the term of this Order. Milestones may include, but are not limited to, completion of environmental review, bid and award, completion of permitting, initiation of construction, and completion of construction. 	<p>updated to reflect the revised schedule. Language has been added to the Revised Tentative Order, Part IX.B.9 clarifying this option.</p> <p>Regarding the other proposed components of the Permit-Term Project List, these are largely consistent with what is already required in a WMP.</p>

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		(c) For Los Angeles County Permittee Permit-Term Project Lists, a revised list shall be submitted as part of the Annual Report if the Permittee will receive funding through a Safe Clean Water Program Stormwater Investment Plan for new or modified control measures.	
F.48	SGVCOG 2 nd Letter and ULAR Group	Part IX.C.3; Page 87. Permittees should be able to request an extension of final compliance deadlines with TMDLs.	No change. See response to comment # F.47.
F.49	ULAR Group	In addition, the Adaptive Management process should occur once every 5 years consistent with the term of the Permit and ROWD, as well as previous communications with the Regional Board. This will help streamline the effort and encourage beneficial updates, as needed, in the future.	<p>No change. Per Part IX.E.1 of the Order, the adaptive management process is intended to be a continuous process where Permittees have the flexibility to request WMP modifications at any time during the permit term per Part IX.E.2 of the Order.</p> <p>Per Part IX.E.4 of the Order, Permittees are required to submit the adaptive management process results concurrently with the submittal of the ROWD (180 days before Order expiration date).</p>
F.50	SGVCOG 2 nd Letter and ULAR Group	Part IX.E.1.c; Page 88. Consideration of the achievement of requirements for storm water volume addressed in adaptive management should include an “as applicable”, given not all WMPs have set targets based on the volume addressed.	Change made. Part IX.E.1.c of the Order has been revised to clarify that that Permittees should consider achievement of interim and final schedules for the storm volume addressed, load reduction, or other compliance metric. Part IX.B.7.h of the Revised Tentative Order was also updated for consistency.

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F.51	VCSQMP	<p>Part IX.E.1.c. Page 88. Part IX.E.c requires achievement of interim and final requirements for storm water volume addressed. This provision assumes a metric of stormwater capture will be used to establish the interim and final milestones in the WMP. Ventura County Permittees may choose to utilize a different metric for the milestones. This provision should be modified to require assessment of interim and final milestones without reference to storm volume addressed.</p> <p>Modify IX.E.c as follows: Achievement of interim and final requirements for storm water volume addressed (via capture, infiltration, diversion, etc.) <u>milestones</u>;</p>	<p>Change made. See response to comment # F.50.</p>
F.52	Santa Ana Region MS4 Permittees	<p>Additionally, Section IX.E.1.c appears to limit milestones for WMPs to volumetric capture. While volumetric capture can be a good metric for establishing milestones, other metrics may be more appropriate for some strategies that could be included in the WMPs. The Santa Ana Region MS4 Permittees recommend this section be modified to allow for the use of other types of metrics as WMP milestones.</p> <p>Modify Section IX.E.1.c to remove the reference to storm water volume addressed to avoid limiting the types of milestones that could be included in a WMP.</p>	<p>Change made. See response to comment # F.50.</p>

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F.53	SGVCOG 2 nd Letter and ULAR Group	Part IX.E.1.e; Page 88. Recommend reassessment of sources of pollutants not be limited to MS4 discharges, as modifications may also be warranted if significant sources outside of the MS4 are identified to be impacting receiving waters.	No change. The focus of this permit is to ensure that MS4 discharges are not a source of pollutants. Note that Part IX.E.1 of the Order provides guidance on what to consider for the adaptive management process but does not prevent Permittees from considering other factors such as significant sources of pollutants outside of MS4 discharges.
F.54	SGVCOG 2 nd Letter and ULAR Group	Part IX.E.1; Page 87-88. Recommend including re-evaluation of identified control measures in the program and costs of implementation.	Change made. Revised Part IX.E.1.c of the Order and added Part IX.E.1.g to the Revised Tentative Order.
F.55	SGVCOG 2 nd Letter and ULAR Group	Part IX.E.4.f; Page 88. Recommend adding a note that comparison of control measures completed to date with control measures projected to be completed to date pursuant to the WMP should include additional control measures implemented outside of the existing WMP.	No change. Part IX.E.4.f does not limit consideration of completed control measures to only those that were included in the WMP. All completed control measures relevant to achieving the applicable WQBELs and receiving water limitations can be used in the comparison to the control measures projected to be completed to date pursuant to the WMP. Where such additional control measures have been completed, Permittees should modify their WMP to include these new watershed control measures per Part IX.E.2, and should report on these per Part IX.E.4, subparts a and b, of the Order.
F.56	SGVCOG 2 nd Letter and ULAR Group	Part IX.E.5; Page 89. Please consider the impacts of additional costs incurred when implementing measures as part of adaptive management are considered and the time to secure such funding.	Change made. See response to comment # F.54.

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F.57	Santa Ana Region MS4 Permittees	<p><u>Establish WMP Development Timelines that Effectively Account for Coordination and Municipal Processes</u></p> <p>The Santa Ana Region MS4 Permittees recommend that the Regional Board consider the time necessary for municipal agencies to conduct required contracting procedures and to conduct effective collaboration and planning. In developing the time frame for developing WMPs, consideration should be given to the time needed to make decisions about whether or not to develop a WMP after the permit is adopted, develop agreements between agencies to do the watershed planning, develop a request for proposals (RFP), distribute the RFP, select a contractor, and get them under contract. Some of these processes are outside the control of the stormwater agency personnel. Finally, each agency has different sources of funding and different budget planning cycles that significantly impact the ability to obtain funds for WMP development. Many of these municipal processes are being significantly impacted by COVID-19, reducing the flexibility for obtaining funds outside of budget cycles and the amount of funds available for watershed planning.</p> <p>Additionally, the timeframe established for the WMP should be commensurate with the level of expected detail and planning expected in</p>	<p>No change. The time provided for WMP development is consistent with the time provided in the 2012 Los Angeles County MS4 Permit given that the Revised Tentative Order does not require implementation of any early action BMPs or the adoption of LID ordinances or green streets policies during WMP development, which were requirements of the 2012 Los Angeles County MS4 Permit.</p>

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		<p>the WMP. For the requirements established in the Tentative Order, the timeframe should consider that developing effective multi-benefit projects requires collaboration with other agencies. Time is needed to effectively engage stakeholders and other agencies to gain input on project ideas. For some key potential partners, such as school districts, time is needed to educate them about the opportunities and benefits of partnering on projects. Additionally, if the level of planning required might necessitate CEQA review, that timeframe should also be considered. Consideration of all of these factors should be taken into account when establishing the timeframes for WMP development.</p> <p>Include WMP development time frames that account for the time necessary to follow required municipal processes, educate stakeholders, and collaborate with potential project partners.</p>	
F.58	City of San Fernando, City of Agoura Hills, City of Hidden Hills, and Aleshire & Wynder, LLP	<p>Page 89. Part IX.F. Table 10. "Submit NOI to the Los Angeles Water Board electing to develop a WMP" by the "Order effective date"</p> <p>This is not much time to submit an NOI. Suggest allowing 6 months after Permit effective date.</p>	<p>Change made. Table 10 and Part IX.F.2 of the Revised Tentative Order includes reduced Notice of Intent (NOI) requirements in comparison to the previous permits. Therefore, the NOI submittal deadline has been revised to 3 months after the Order's effective date for Ventura County Permittees. This is also consistent with the time provided in the 2014 City of Long Beach MS4 Permit.</p>

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F.59	City of Port Hueneme, City of Simi Valley, City of Ventura, City of Thousand Oaks, County of Ventura, and VCSQMP	Provide additional time for development of WMPs/WMP equivalent plans	No change. See response to comment # F.57.
F.60	VCSQMP	<p><i>Provide 6 months from the Effective Date of the Permit to submit the NOI and 30 months from the submittal of the NOI to submit the Watershed Management Program</i></p> <p>The Ventura County Permittees have been implementing their MS4 Permit and TMDLs in conjunction with numerous other stakeholders for over 10 years. During this time, the Permittees have developed several TMDL implementation plans, a Stormwater Resource Plan, and been a stakeholder during the development of Salt and Nutrient Management Plans and Groundwater Sustainability Plans throughout the County. While the Permittees have been successful to date in implementing several of the projects identified in the TMDL implementation plans, experience implementing those projects has made it clear that plans that are focused solely on meeting water quality goals are challenging to fund and gain public support to implement. However, some of the other plans in Ventura County, particularly those that</p>	<p>Change made. See response to comments # F.2, F.5, F.57 and F.58. The Board has made revisions to the Revised Tentative Order to ease the administrative and analytical requirements for the NOI and WMP, which will reduce the amount of time needed to prepare the NOI(s) and draft WMP(s). The proposed 36-month timeline to submit the draft WMP(s) is administratively unreasonable. Theoretically, if the WMP was submitted during the 3rd year of the permit cycle as proposed by the commenter, and the WMP approval process takes up to a year, it would then be year 4 of the 5-year permit cycle and very close to the Report of Waste Discharge (ROWD)/re-application package and adaptive management results submittal deadline (180 days before expiration of permit). At that point in time, Ventura County Permittees would have a span of 6 months to start implementing the newly approved WMP, conduct an adaptive management process for a WMP that had barely started to be</p>

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		<p>provide water supply and recreational and habitat benefits are more likely to gain public support and funding.</p> <p>The WMPs provide the Ventura County Permittees with an opportunity to leverage all the existing plans in the County and identify opportunities and projects that provide multiple benefits and are more likely to be funded. Developing WMPs that meet these goals will require coordination with agencies outside of the stormwater programs and engagement with stakeholders that may not typically participate in these types of planning efforts (e.g. agriculture, water supply agencies). Some of the best opportunities for meeting water quality goals and providing other benefits in Ventura County may not be within the municipalities.</p> <p>The challenge with developing a more coordinated plan is that the entities that need to be involved are not subject to the permit and do not have to meet the deadlines specified in that permit. Additionally, time is needed to identify and vet opportunities that are not within the municipalities jurisdictions to assess whether there is sufficient confidence they can be implemented to allow the MS4s to include them in a compliance plan. Most of the WMPs/EWMPs that were developed relied on a process of identifying</p>	<p>implemented, and submit the adaptive management results and ROWD. Therefore, this proposed timeline is administratively unreasonable considering the time schedule for WMP approval, adaptive management, and ROWD submittal.</p>

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		<p>public parcels and assessing the structural controls that could be implemented on those parcels, then using green streets and unspecified controls on private lands to get any remaining needed load reductions. As noted by the one EWMP that has been revised in the Rio Hondo/San Gabriel River, when more time was taken to explore other opportunities, other regional projects were identified that significantly reduced the cost of the implementation program. Finally, time is needed to develop projects that the public agrees are worthy of funding to support the development of the financial strategy required by the permit.</p> <p>The Fact Sheet includes the following justification for the WMP development timeframe on page F-209:</p> <p>"The deadlines for Ventura County Permittees to develop the WMP(s) considered various factors such as: the small number of Ventura County Permittees compared to Los Angeles County Permittees (12 compared to 87); the well-established collaboration among Ventura County Permittees through their Ventura Countywide Stormwater Quality Management Program; the significantly fewer applicable TMDLs (16 compared to 35); and their decade long experience implementing watershed based TMDL implementation plans</p>	

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		<p>to achieve the 2010 Ventura County MS4 Permit TMDL provisions including WQBELs. Therefore, the timeframe to submit the draft plan(s) is adequate and consistent with the WMP timeframe provided in the previous 2012 Los Angeles County MS4 Permit."</p> <p>Notably, this rationale does not discuss the unique aspects of Ventura County that make the WMP development more challenging than in Los Angeles County. These elements include the disconnected MS4 system that provides less opportunities for coordinated planning, the fact that a smaller number of Permittees, several of which are located in disadvantaged communities, means fewer resources for developing the plans, and the need to work with other non-MS4 watershed stakeholders to develop regional project opportunities. Additionally, as discussed above, the fact that the Permittees have been implementing TMDLs for several years means that many of the low hanging fruit projects have already been implemented. The WMP process will need to evaluate less readily identifiable opportunities for the next iteration of the planning process. All of these challenges lead to the need for more time in Ventura County for planning, rather than less.</p> <p><u>Recommendation:</u></p>	

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		<p>The Program strongly believes that one of the most important mechanisms to reduce the cost of implementation of the regional permit is to provide Ventura County Permittees sufficient time to conduct a planning process that can identify collaborative opportunities for projects that meet multiple needs and can therefore be partially funded by sources other than just the Program. As a result, the Ventura County Permittees are requesting that the Permit include the following deadlines:</p> <ul style="list-style-type: none"> • Submittal of NOI 6 months after the effective date of the permit to allow the Ventura County Permittees to develop the necessary agreements to develop the WMPs. • Submittal of WMPs 30 months after the submittal of the NOI. <p>The Program recognizes the challenge with providing a long time period for development of the WMPs in the permit. As a result, the Ventura County Permittees would like to propose that the permit include a series of interim steps and required submittals that would demonstrate progress is being made on the planning. For example, the identification of water quality priorities and the source assessment are foundational pieces that will need to be completed early to support the development of projects. Additionally, the</p>	

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		<p>reasonable assurance analysis approach could be proposed and modifications to MCMs and other source control measures could be identified as additional interim steps to support additional time for the identification of regional projects.</p> <p>[Attachment 1]: [Table 10 1st row 3rd column]: <u>Within 6 months of the Order effective date</u> [Table 10 2nd row 3rd column]: 48-30 months after Order effective date <u>NOI submittal</u></p> <p>F. Ventura County Permittees</p> <p>3. A Ventura County Permittee(s) that elects to develop a WMP shall submit the WMP to the Los Angeles Water Board Executive Officer no later than 48-30 months after the effective date of this Order. Within 3 months of receipt of comments from the Los Angeles Water Board or as otherwise directed by the Executive Officer, Ventura County Permittees(s) shall submit the final WMP in response to comments.</p>	
F.61	City of Camarillo	<p>Notice and Intent (NOI) and Watershed Management Program (WMP) Development Schedule - As previously requested in the Countywide Program comment letter, consideration should be given to allow at least six months from the permit effective date to submit an NOI and thirty months from the</p>	<p>Change made. See response to comments # F.2, F.5, F.57 and F.58.</p>

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		<p>effective date for development of a WMP to allow for coordination with other agencies to identify multi-benefit regional projects.</p> <p>Prior to submittal of an NOI more time is needed to allow for the following:</p> <ul style="list-style-type: none"> • Negotiations and formal commitments from various stakeholders in the Calleguas Creek Watershed and County of Ventura, which take time and are essential to determine if development of a WMP would be beneficial. • Drafting and approving agreements, such as a Memorandum of Understanding and cost sharing agreements, from various stakeholder governing boards or councils, which may take at least a year. <p>The process of obtaining contracts which require a formal selection and interview process for technical consultants further justifies why additional time is needed for WMP Development. This process takes time and includes:</p> <ul style="list-style-type: none"> • Drafting and approving budgets for the fiscal year, which are written and negotiated six months in advance of adoption. • Drafting and executing implementation agreements prior to selection of a consultant for WMP development. 	

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		<ul style="list-style-type: none"> • Drafting the formal bid for professional services and the bid process, which must have governing boards or council authorization and requires proper advertisements. • Interviewing candidates, selecting the candidate, and entering into an agreement with a candidate, which again must have City Council authorization. 	
F.62	VCSQMP	<p><i>Modify Minimum Control Measure Requirements in Accordance with Attached Comment Matrices</i></p> <p>The Program has identified a number of requested modifications to the minimum control measures (MCMs) in Part VIII that will provide clarity and be better aligned with experience implementing existing programs in Ventura County. The Ventura County Permittees strongly request that the requested modifications be made even though the MCMs can be modified through a WMP. As noted earlier in this letter, if the WMP and TMDL requirements remain the same as currently proposed, some Permittees may have little incentive to develop a WMP given the costly modeling requirements and the lack of additional compliance coverage. For these Permittees, the MCM requirements would then be required without any opportunity for modifications. Alternatively, opportunities to modify the MCMs could be provided outside of a WMP.</p>	<p>Change made. See response to comment # E.2.1.</p>

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		<p>In addition, the Ventura County Permittees request that time be provided to adjust programs to meet the new MCM requirements if a WMP is not going to be developed.</p> <p><u>Recommendation:</u> Incorporate recommended language changes proposed in Attachments 1 and 3.</p> <p>[Attachment 1]: F. Ventura County Permittees</p> <p>7. Ventura County Permittees that do not elect to develop a WMP shall be subject to all requirements in this Order except those requirements pertaining to Watershed Management Programs and <u>Part VIII</u> immediately upon the effective date of this Order. <u>Permittees shall continue to implement their existing storm water management programs and update them to comply with Part VIII within 6 months of the effective date of this Order....</u></p> <p>9. Ventura County Permittees may request an extension of the deadlines to submit an NOI to develop a WMP, submit a draft program, and submit a final program. The extension is subject to approval by the Executive Officer of the Los Angeles Water Board. If the extension is approved, Ventura County</p>	

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		<p>Permittees shall comply with Part VIII (Storm Water Management Program Minimum Control Measures) <u>within 6 months of the effective date</u> of this Order and requirements specified in subparts b and c above during any extension period.</p>	
F.63	City of Los Angeles	<p>Main Body, Part IX.G.1. Page 90. The Tentative Order requires the submittal of a Notice of Intent (NOI) before or on the effective date of the Order, which is often between 30 and 60 days following Regional Board adoption. It is unclear what purpose this requirement serves as Permittees may notify the Regional Board of a decision to discontinue participation in a WMP at any time. Without such notification of discontinued participation, a Permittee is effectively continuing to participate. Additionally, annual reporting and June 30, 2021 WMP updates provide opportunities for Permittees to communicate whether they intend to continue their participation in a Group.</p> <p>Making the NOI due on the effective date does not provide sufficient time for Permittees to review the final version of the adopted Order and engage managers and elected officials across WMP Groups. The City participates in five WMP Groups made of up to 19 different municipalities per Group (29 across all Groups). As such, LASAN requests that the requirement to submit an NOI be</p>	<p>Change made. The requirement for Los Angeles County Permittees to notify the Board of their continued participation in a WMP has been eliminated from Table 11 and Part IX.G.2 of the Revised Tentative Order. Notification requirements, related to withdrawing from, or joining, a WMP have been revised to provide greater flexibility in the timing of such notifications. See Part IX.G.2 of the Revised Tentative Order.</p>

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		removed, or revised to reflect the requirement can be addressed in first annual report submitted after the effective date of the Permit, or during the submittal of June 30, 2021 WMP update. If none of these changes are acceptable, at a minimum, the schedule should be revised to 180 days after the effective date of the Order.	
F.64	City of Los Angeles	[Add new Part IX.G.2.b.iii. as follows]: "Whether a Permittee(s) intends to submit a Permit-Term Project List".	No change. See response to comment # F.47.
F.65	City of Santa Clarita	Page 91 Section 3.a. The draft Permit is not scheduled to be adopted until Spring 2020. Please clarify that revised draft Permit requirements made after December 2020 will not have to be included in the revised reasonable assurance analysis.	No change. Since the issuance of the Tentative Regional MS4 Permit, the State Water Board on November 17, 2020, adopted Order WQ 2020-0038. The Revised Tentative Regional MS4 Permit is updated accordingly. However, the changes included in the Revised Tentative Regional MS4 Permit do not affect the 2012 Los Angeles County MS4 Permit requirement for Permittees to submit a revised RAA and WMP by June 30, 2021.
F.66	SGVCOG	On behalf of the San Gabriel Valley Council of Governments (SGVCOG), we ask that the Los Angeles Regional Water Quality Control Board (Regional Board) ensure that, in the issuance of the new National Pollutant Discharge Elimination System (NPDES)	Change made. The revised Tentative Order does not include the June 30, 2021 deadline for Los Angeles County Permittees to submit an updated RAA and updated WMP. This deadline was established in State Water Board Order WQ 2015-0075, ¹ and

¹ On April 21, 2021, the Los Angeles County Superior Court issued a final judgment in the case of Natural Resources Defense Council, Inc. and Los Angeles Waterkeeper v. State Water Resources Control Board and California Regional Water Quality Control Board, Los Angeles Region (Super. Ct. Los Angeles County, No. BS156962 (NRDC)). In furtherance of the judgment, the court will issue a writ ordering the State Water Board to set aside Order WQ 2015-0075.

#	Commenter(s)	Comment	Response
		<p>Regional Municipal Separate Storm Sewer System (MS4) Permit for Los Angeles and Ventura counties, the Regional Board should take all necessary actions to ensure that Permittees are required to complete the upcoming revised reasonable assurance analysis (RAA) only once. To ensure this, Permittees must be allowed sufficient time to address the final, applicable RAA-specific regulatory requirements contained in the successor MS4 Permit issued by the Regional Board.</p> <p>Under the current Permit and the new Tentative Draft Permit, Permittees are required to submit an updated RAA by June 30, 2021. This is a costly and time-consuming endeavor that many Permittees have already initiated. The State Water Resources Control Board (SWRCB) has issued a proposed order (Review of Approval of Nine Watershed Management Programs and One Enhanced Watershed Management Program Pursuant to Los Angeles Regional Water Quality Control Board Order R4-2012-0175). The SWRCB's</p>	<p>subsequently included as directed by the State Water Board in the 2012 Los Angeles County MS4 Permit. The State Water Board on November 17, 2020, adopted Order WQ 2020-0038 which continues to require Los Angeles County Permittees under the 2012 Los Angeles County MS4 Permit to submit an updated Watershed Management Program (WMP) and RAA by June 30, 2021, consistent with the deadlines specified in the State Water Board Order WQ 2015-0075. Since this deadline will be past prior to the issuance of the Regional MS4 Permit, it has been removed from Table 11 and Part IX.G.3.a of the Revised Tentative Order. The Revised Tentative Fact Sheet Part X.C was also updated.</p>

To date, the State Water Board has taken no action to set aside Order WQ 2015-0075. Even if Order WQ 2015-0075 is ultimately set aside, the trial court's ruling was based solely on the antidegradation analysis for high quality waters and did not call into question the propriety of the State Water Board's other holdings on the 2012 Los Angeles County MS4 Permit. Because these holdings have not been disturbed by the NRDC case, and because these holdings address matters relevant to the Regional MS4 Order, this response comment continues to cite and discuss Order WQ 2015-0075, as appropriate, for matters other than antidegradation concerning high quality waters.

#	Commenter(s)	Comment	Response
		<p>proposed order includes changes that would alter the scope and methodology needed to complete the revised RAA, which increases the necessary analyses and cost for completing that effort.</p> <p>The Regional Board should ensure that, in the adoption of a successor MS4 Permit, cities are only required to complete the revised RAA once, and are given sufficient time from successor Permit adoption to fully incorporate the necessary additions mandated by the finalized State Board Order and ultimately incorporated in the successor MS4 Permit. It is anticipated that the State Board will issue a draft order on November 17, for which the Regional Board will need sufficient time to incorporate in a revised draft permit. The SGVCOG is recommending the successor MS4 Permit provide a minimum of 6 months from the date of the successor MS4 Permit's adoption for Permittees to incorporate the required updates through the RAA revisions. Depending on the date of the successor MS4 Permit adoption, this will likely require extending the current RAA deadline well beyond June 30, 2021.</p> <p>This RAA analysis extension request is made to prevent any doubling of efforts and to ensure the appropriate analyses in the revised RAAs are technically sound and in</p>	

#	Commenter(s)	Comment	Response
		<p>compliance with the anticipated revised regulatory requirements. Permittees are facing substantial financial impacts and budget shortfalls due to COVID 19 and don't have the funds to duplicate the costly, technical RAA analysis first under the terms of the 2012 MS4 Permit and again under its successor. The SGVCOG earnestly asks that the Regional Board assist its members in ensuring that the limited funds for MS4 permit compliance are used efficiently, and in a manner that best furthers Permit compliance.</p>	
F.67	City of Santa Clarita	<p><u>Insufficient Timeline for New Requirements</u> If the final permit is not adopted until Spring 2021 or later, there will be insufficient time for watershed plans to complete the revised Reasonable Assurance Analysis by June 30, 2021. There are last minute changes in every permit process that may not be quantified even if the permittees start the process of revision now. The extensive costs of re-running a model and adjusting any projects that are incorporated as a result of changes make this requirement difficult if not impossible to comply with. This is especially difficult with any changes incorporating stakeholder engagement and other time intensive efforts that surround these documents.</p> <ul style="list-style-type: none"> • If the June 30, 2021, deadline is required, please qualify (it) that permittees would 	No change. See response to comment # F.66.

#	Commenter(s)	Comment	Response
		<p>not be required to incorporate any draft Permit changes made after December 2020, until the next plan update.</p> <ul style="list-style-type: none"> • In the alternative, establish a series of milestones to complete changes that extend for at least 12 months. • Consider a version of the documents that needs public input be submitted by June 30, 2021, with time allowed for revision based on stakeholder input. Rushed documents lead to errors, and some watersheds may need to completely re-write their documents based on recent State Water Resource Control Board decisions. <p>While the Reasonable Assurance Analysis and revised document may not be able to be complete by June 30, 2021, there are steps like data acquisition and calibration, field investigations for potential projects, etc., that might be able to be completed by June 30, 2021. Please consider a longer period of time for these efforts.</p>	
F.68	Aleshire & Wynder, LLP on behalf of the cities of Bell, Carson, Flintridge, Glendora, Irwindale, La	<p><u>WMP Development Timelines that Account for Coordination and Municipal Processes</u> Include WMP development time frames that account for the time necessary to follow required municipal processes, educate stakeholders, and collaborate with potential project partners;</p>	<p>No change. See response to comment # F.66.</p>

#	Commenter(s)	Comment	Response
	Cañada, and Rancho Palos Verdes	<p>The Cities request that the Board consider the time necessary for municipal agencies to conduct required contracting procedures and to conduct effective collaboration and planning. The time frame should allow for at least nine months to develop agreements between agencies to do the watershed planning and develop a request for proposals (RFP). At least another six months are needed to distribute the RFP, select a contractor, and contract.</p> <p>Additionally, developing multi-benefit projects requires collaboration with other agencies. Time is needed to engage stakeholders and other agencies, such as schools. This should be taken into account when establishing the timeframes for WMP development.</p>	

Miscellaneous Modifications

1. Part IX.A.1 of the Order. Clarified that Permittees can individually or collaboratively develop and implement a WMP.
2. Part IX.A.4.l of the Revised Tentative Order. Added new sentence to clarify that if a WMP includes multiple Permittees, the WMP shall identify a group lead and names of all the participating Permittees. If there is a change, the group is required to promptly notify the Los Angeles Water Board.
3. Part IX.B.3.a of the Order. Replaced “WBPCs” with “Pollutants” for consistency with subparts b and c below.
4. Part IX.B.8.f of the Revised Tentative Order. Moved the sentence “Permittees shall address all WBPCs in its RAA” to the end of the new Part IX.B.8 for clarity.
5. Part IX.F.9 of the Revised Tentative Order. Added clarification about requirements that apply if Ventura County Permittees opt to discontinue implementing an approved WMP.
6. Part X of Attachment F. Updated for consistency with changes made in response to comments and added additional clarity, as necessary.